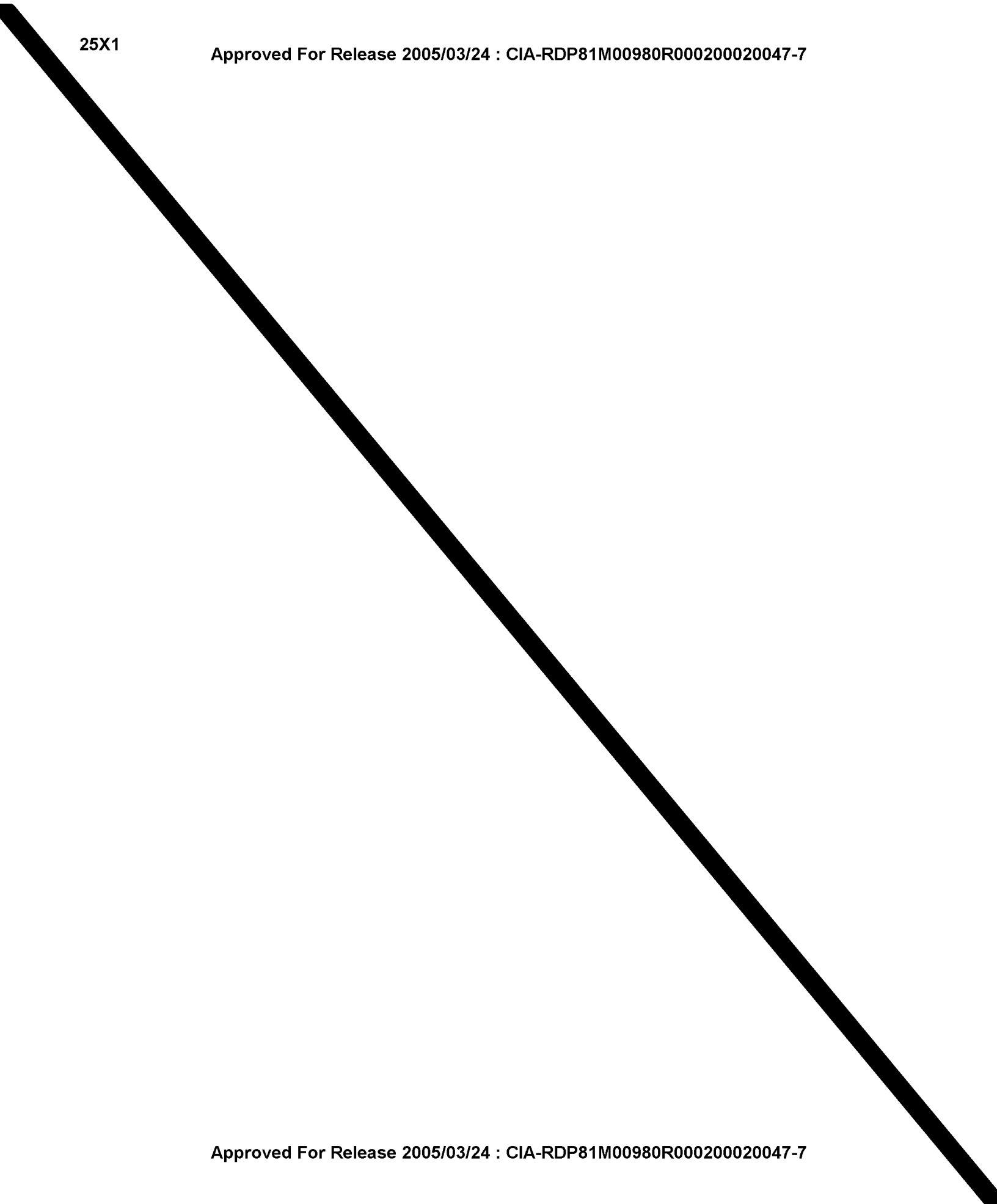

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positive action to amend the 1964 Meat Import Quota Act. This would stabilize the high price-low price cycle and benefit both consumers and producers.

The action by the administration again demonstrates the lack of understanding for the problems of agriculture and that the agricultural economy is the backbone of America's financial condition.●

MODIFICATION OF THE FREEDOM OF INFORMATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. DEVINE) is recognized for 30 minutes, and to revise and extend his remarks.

Mr. DEVINE. Mr. Speaker, a few years ago the Congress of the United States created a bonanza for busybodies, for curiosity-seekers, for nosey people, and, indeed for foreign agents who may be enemies of our country. I have reference to the amendments to the Freedom of Information Act.

As a former law enforcement person and FBI agent years ago and a prosecuting attorney, I am aware of the importance to law enforcement agencies of having informants and having informants protected, having their identity protected, in order to obtain essential information not only in the field of national security but also in the area of professional criminals.

I have today introduced a bill—I think the number is H.R. 13040—to amend the Freedom of Information Act to improve the handling of classified information and investigatory records.

When Congress last amended the act in 1974 there was considerable concern within the executive agencies and the White House as well, about the provisions which pertained to the handling of classified material and investigative files. This concern was great enough to prompt a veto by President Ford when the bill reached his desk.

When the President returned the bill to Congress, he sent along a message identifying the problems he found with its provisions and their probable consequences in the future administration of the act by the various departments of Government. He went so far as to recommend specific changes which did not entirely eliminate what he thought to be an unreasonable burden on the agencies but which did alleviate them to some extent.

Congress did not see fit at that time to heed the President's warnings and overrode his veto. Suggested amendments later offered by the administration lay fallow.

Now we have had several years of experience under the act as approved in 1974. Did the President's predictions of unreasonable burdens on executive departments come to pass? In the light of subsequent experience, do the President's suggested amendments make sense? The answer to both of these questions is an unqualified "Yes."

In the past year I have taken the initiative of asking some of the affected departments about their experience under the 1974 amendments. These inquiries convince me beyond any doubt that the 1974 amendments have resulted in entirely unreasonable burdens on the affected agencies, as well as constituting very real dangers to the national interest.

One of the agencies greatly affected by the requirements of the 1974 amendments of the 1974 amendments is the CIA. In September of 1977 Mr. John F. Blake, the Acting Deputy Director of Central Intelligence, testified before the Judiciary Subcommittee on Administrative Practice and Procedure of the U.S. Senate. His testimony was lengthy but clearly indicated a serious problem imposed upon the intelligence community by the act as it now reads. The following excerpts from his statement tell the main story:

> The CIA's principal business is the collection and production of intelligence. The Agency's files are set up to accomplish this purpose. And, since much of the Agency's business is by necessity secret, an FOI requestor seeking CIA records on a certain subject usually cannot describe these records with precision. Thus, the very first step in processing an FOI request—that of searching for and identifying records—is often very complicated and difficult.
>
> When records are located, each record must carefully be screened by the responsible agency components to determine if the record may be released. And there is no charge to the requestor for this document review, regardless of the scope of the request. In most federal agencies, I would assume that the basic premise is that documents are releaseable and it's only an unusual case in which a document should be withheld. If that premise obtained in the Central Intelligence Agency, the job of reviewing documents for release would be considerably simplified. But, as you gentlemen will know, there is an inherent tension between the needs of an open society and the requirements of a secret intelligence organization.
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> Let me speak frankly, the 1974 amendments to the FOIA and the ensuing public interest constituted a somewhat traumatic experience for the professional intelligence officer who had been trained and indoctrinated to conduct his work in secrecy. These amendments required a considerable adjustment in attitude and practice.
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> The job of reviewing documents is exacting and time-consuming. The Act requires that a determination must be made within ten days whether documents may be released. In general, the Agency has not been able to comply with that requirement, despite efforts to do so. New requests are being received at the rate of ninety per week. The Act does not distinguish between requests which may involve the review of five or ten documents, and requests that may encompass hundreds of thousands of documents. We as an Agency are not in a position to establish priorities between requests or make a judgment that one request is more important than another.
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And further, a letter from the Director of the CIA in March of 1978 outlines the administrative difficulties encountered:

> . . . the 1974 amendments to the Freedom of Information Act, and the public interest in them and exploitation of the possibilities they create, have required an exceptionally difficult redirection of the efforts of the Agency and a serious dislocation of its resources. During the calendar year 1977, we received about 93 requests each week, including Privacy Act and E.O. 11652 requests, for review of thousands of pages of documents. We currently have a backlog of approximately 2,600 requests and 206 appeals, in spite of the expenditure of the equivalent in man-hours of 109 fully employed personnel to this problem alone. Since the costs of this activity are not accounted for as a single programmatic line item in the Federal budget for the entire Government, overall costs cannot be certainly measured against benefits; and congressional action on the matter cannot accurately reflect that sort of cost-benefit relationship that might help the Congress in its decision-making processes. It is certainly significant, however, that last year this effort resulted in the expenditure of $2,161,000 in Agency salaries alone, whereas we collected only $16,439 in fees.
>
> The amended Freedom of Information Act is seriously affecting the operations of this Agency.

The Department of the Army indicated that compliance with the act caused the Department of Defense to pay out approximately $5.5 million, and that 43 defense employees devoted full time to the administration of the act while 59 employees devoted less than full time but more than half time to the effort. It was also pointed out that once records are requested, it becomes almost impossible to get rid of them in the normal course of destruction schedules.

Investigatory files are at least as difficult to deal with as those containing national security information and, in some ways, even more difficult. To give you a very short look at the problem, I quote from a letter which I received from the Director of the FBI:

> Since the Freedom of Information Act (FOIA) was amended in 1974, effective February 19, 1975, the FBI has received over 43,000 information act requests. In 1977 alone, expenditures by this Bureau are expected to exceed $8 million dollars for the processing of Freedom of Information-Privacy Acts (FOIPA) requests. The Bureau has established a permanent complement of 375 personnel to administer the FOIPA; and, it was necessary this past summer to divert 282 Special Agents from their field assignments to FBI Headquarters to assist in eliminating a huge backlog of requests which had developed.
>
> Concern is being expressed by many of our law enforcement colleagues on a state and local level, with whom the Bureau frequently exchanges sensitive information. These law enforcement agencies are worried about whether their information can be properly protected in view of the FOIPA. Certainly every effort is being made by the FBI to honor all confidential relationships, so essential to good law enforcement; however, balancing existing statutory mandates with essential needs of our work is becoming an increasingly difficult task.

It appears that the chickens have come home to roost. The difficulties enumerated in the veto message in 1974 have indeed materialized.

In my personal opinion there are changes which need to be made in the Freedom of Information Act going somewhat beyond those proposed after the veto message. For example, before the 1974 amendments, records contained in investigatory files compiled for law enforcement purposes were exempt from disclosure under the act. Such a categorical exemption may have been too broad, but it more nearly approached the proper solution than the present law.

My bill recognizes the evident will of Congress and the acknowledged right-

ness of the general proposition that information in the hands of the Government should be made available to the general public and individual members thereof. When information is withheld, it must be for substantial reasons and then bound by reasonable and understandable procedures which eliminate the possibility of arbitrary withholding by agency personnel.

First of all, my amendments would allow for court review of documents classified by agencies in the interest of national defense or foreign policy in order to insure the reasonableness of that classification. Under present law, documents must be disclosed with national defense implications and must be disclosed even if the classification is reasonable. This new language provides that the court may consider all pertinent evidence, including a look at the document itself if necessary, and unless it finds a reasonable basis for the classification, the document will be disclosed. The burden of proving the reasonableness of the classification rests with the agency.

Investigatory records are complicated collections of information from many sources having myriad ramifications. Disclosure can possibly cause serious danger to persons mentioned therein and to law enforcement personnel. It is often impossible to say with categorical certainty that a certain kind of danger might develop or to whom. There is also definite possibility for drying up information sources by exposing or threatening to expose files which reveal sources. If laws are to be enforced, such considerations must be taken into account. Unfortunately, no court is in position to make such original judgments. These considerations, which are of necessity substantive, combined with the inordinate demand on enforcement manpower, call for some modification in the provisions of present law on the subject.

My bill would enable the agency head to make a case-by-case finding of impracticability on the basis of specific factors which can be reviewed by courts. It does not apply to records which are not investigatory or those which the agency well knows do not qualify for exemption.

In my opinion the amendments which are included in my bill are those minimally required to make the Freedom of Information Act workable and to relieve what have proved to be unreasonable requirements imposed upon the agencies of Government dealing with national security and investigatory information.

Mr. RUDD. Mr. Speaker, will the gentleman yield?

Mr. DEVINE. I yield to my colleague, the gentleman from Arizona.

Mr. RUDD. Mr. Speaker, I wholeheartedly thank the gentleman from Ohio for yielding, and I want to give my unqualified support to this effort of our good friend and colleague, the gentleman from Ohio. I want to commend him highly for his proposed legislation.

As the gentleman from Ohio (Mr. DEVINE), a longtime leader in this august body, has so ably pointed out, the Freedom of Information Act is being used by subversive groups and organized crime elements for basically three purposes that were never contemplated by those who in good conscience supported its enactment.

First, this act has been used by subversive groups and organized crime to learn the techniques of the Federal Bureau of Investigation and other law enforcement groups.

Second, it has been used to learn the identities and the locations of hundreds of valuable informants being used by the FBI and police groups throughout the Nation.

Third, the Freedom of Information Act has been misused by these same subversive groups and criminal elements to impose an insurmountable burden on the FBI and other intelligence-gathering agencies, to make it impossible for them to carry out much of their usual work to investigate and fight crime and acts of subversion and terrorism against our people and against our country.

The gentleman from Ohio has ably cited these facts.

He has pointed out that the FBI has received more than 40,000 Freedom of Information Act requests since the law went into effect in 1975.

At one point, these requests required the bureau to bring in 282 field agents from throughout the country to spend 4 months doing nothing but processing these requests.

This meant that these 282 field agents were prevented from carrying out their usual duties of investigating Federal crimes, cooperating with local and State law enforcement agencies to fight crime, and other work that is vital to our people.

I believe that we should all be most concerned about these adverse effects of the Freedom of Information Act upon our intelligence and law enforcement agencies, and should take appropriate legislative action through this proposed bill to correct these problems.

I am especially concerned about the impact upon legitimate and necessary law enforcement activities caused by the release of valuable FBI documents under the Freedom of Information Act, which allow subversive groups to learn the techniques and the identities of informants used by the FBI.

For example, the Socialist Workers Party, a dangerous subversive group, has won access to more than 40,000 sensitive FBI documents, which have enabled them to learn the identities of approximately 360 informants used by the FBI since 1938.

The identities of these informants are deleted from the released documents. But it is a fairly simple procedure for the socialist workers party functionaries to carefully cross-check these thousands of documents and learn the informants' identities even though they are not spelled out in the material that they have obtained.

Judge Griesa of New York who is presiding over the Socialist Workers Party suit against the FBI recently ordered the informants which the justice department to its great credit has so far refused to do.

One can readily see the devastating impact that all of this is having on our vital law enforcement effort.

First law enforcement and intelligence agencies that rely on informants which it takes years to cultivate and train are finding it more and more difficult to find them.

This is because the Freedom of Information Act has posed an unwarranted danger to their lives and the lives of their families.

The Bureau is therefore losing invaluable information that is needed to protect our people and our institutions from subversion and criminal activities.

The Freedom of Information Act has also forced local and State police departments to stop providing valuable and needed information to the FBI and other Federal agencies because they fear that the law will force it to be made public—to be delivered into the hands of the very criminals that they are investigating and attempting to prosecute and convict.

Mr. Speaker, it is for these reasons that I am pleased to join our colleague from Ohio (Mr. DEVINE) in this effort to amend and improve the Freedom of Information Act.

Congress must prevent the release of sensitive documents that relate to ongoing investigations and to subversive or criminal activities.

Under the Freedom of Information Act as it is now written and being implemented Congress has given a devastating weapon to the subversive and criminal world with which to bog down and destroy legitimate law enforcement functions and activities.

This flaw in the current law must be eliminated.

I hope this legislation will receive swift consideration.

Mr. DEVINE. Mr. Speaker, I thank the gentleman from Arizona for this contribution.

I would point out that I hope all Members will pay attention to what the gentleman from Arizona (Mr. RUDD) has said.

The gentleman from Arizona (Mr. RUDD) spent 20 years in the Federal Bureau of Investigation and had an outstanding record and knows firsthand, not only from his service in the domestic area, but also in Central and South America where the gentleman had an opportunity to observe what espionage may be, what internal security matters may develop.

Few people, even in the Congress, recognize that under the terms of the Freedom of Information Act you do not have to even be a citizen of the United States to demand and receive records that are in the hands of our intelligence agencies.

I think a number of us recognize there are certain elements in this country that would destroy our intelligence structure, if at all possible.

I hope our colleagues will take a good look at this legislation that I have introduced and perhaps join us in cosponsorship.

LET US GET NEW YORK CITY BACK ON ITS FEET

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Delaware (Mr. EVANS) is recognized for 5 minutes.